

Notice of Allowability

Application No.

10/625,526

Examiner

Natasha N. Patel

Applicant(s)

MOWER, MORTON M.

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 2 August 2006.
2. ☒ The allowed claim(s) is/are ³⁻¹⁶1-16 and 24-27.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), ^{6/20/06}
Paper No./Mail Date ~~See Continuation Sheet~~ ^{8/22/06 9/15/06}
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20 July 2006
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David M. Longo on September 19th and 22nd, 2006.

The application has been amended as follows:

In the claims:

In claim 1, line 10, and claim 24, line 7, immediately after "...at a second amplitude", -- different from the first amplitude—was inserted.

Claims 2, 17-23 and 28-32 were canceled.

Art Unit: 3766

3. The following is an examiner's statement of reasons for allowance:

The prior art of record discloses a dual chamber cardiac pacemaker, comprising: a first electrode electrically coupled to an atrial chamber; a second electrode electrically coupled to a ventricular chamber; a signal generator to generate a sequential pair of pacing pulses; a first lead coupled to the signal generator and to the first electrode; a second lead coupled to the signal generator and to the second electrode; and a distributor circuit, connected between the first lead and the signal generator and between the second lead and the signal generator, to receive the pair of pacing pulses, distribute a first pacing pulse from the pair to the first lead, and distribute a second pacing pulse from the pair to the second lead after a delay period. However, the prior art of record does not disclose that the second pacing pulse is different in amplitude from the first pacing pulse.

Furthermore, Pouvreau (US Patent 5,797,970) discloses pacing different chambers with different amplitudes. However, the value of the amplitude determines what chamber the pulse is delivered based on how the circuitry is set up originally (i.e. where the diode is placed). In other words, there is no control applied after the pulses have already been generated. Thus, there is no motivation to combine Pouvreau and Stahmann to obtain the Applicant's invention.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Allowable Subject Matter

5. Claims 1, 3-16, and 24-27 are allowed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stahmann et al. (US Patent 6,760,623) discloses a dual chamber pacemaker that paces the atrium and both ventricles. The timing of the pulses is varied in the pulse delivery controller/timer after the pulses are generated by the pulse generator. However, the controller does not vary the amplitude.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natasha N. Patel whose telephone number is 571-272-5818. The examiner can normally be reached on M-F 8:30-5:00.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3766

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NNP
9/18/06


Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3766